

IFW / AF/3762



PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of

Docket No: Q63269

Naoto AKIYAMA, et al.

Appln. No.: 09/800,788

Group Art Unit: 3762

Confirmation No.: 4071

Examiner: Frances P. Oropeza

Filed: March 08, 2001

For: **ELECTROTHERAPY APPARATUS AND ITS ELECTRIC ENERGY DELIVERING METHOD**

STATEMENT OF SUBSTANCE OF INTERVIEW

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Please review and enter the following remarks summarizing the interview conducted on

July 28, 2004:

REMARKS

An Examiner's Interview Summary Record (PTO-413) was attached with the PTO Communication dated July 26, 2004.

During the interview, it was pointed out to the Examiner that although the previous rejections based on Morgan and Cameron were withdrawn, the June 28, 2004 Office Action did not acknowledge, address or otherwise respond to Applicant's arguments for patentability in the December 9, 2003 Amendment with regard to the rejection of claims 1-8, 36 and 39 under 35 U.S.C. § 102(e) as being anticipated by Lyster. That is, in the June 28, 2004, the Examiner simply repeats verbatim the same rejection reasons set forth in the July 9, 2003 Office Action.

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However, as set forth in MPEP 707.07(f), “[w]here the applicant traverses any rejection, the examiner should, if he or she repeats the rejection, take note of the applicant’s argument and answer the substance of it.”

Further, it was pointed out to the Examiner the repeated rejection grounds do not follow the requirements for rejecting a claim containing “means plus function” limitations. That is, in rejecting a claim with a “means plus function” limitation, 35 U.S.C. § 112, sixth paragraph, requires that (1) the prior art element perform the identical function specified in the means plus function limitation, and (2) the prior art element’s structure must be the same as or equivalent to the structure corresponding to the claimed means. However, in the repeated rejection grounds, the Examiner only generally alleges that Lyster discloses all of the features of invention recited in independent claims 1 and 2 without specifically identifying which elements of Lyster’s defibrillator correspond to the claimed means.

In view of the Examiner’s lack of a response to the arguments for patentability, the Examiner stated Applicant should file a response to the June 28, 2004 Office Action pointing out the error and providing the same arguments set forth in the December 9, 2003 Amendment so that she can issue a new action with a proper response.

It is respectfully submitted that the instant STATEMENT OF SUBSTANCE OF INTERVIEW complies with the requirements of 37 C.F.R. §§1.2 and 1.133 and MPEP §713.04.

It is believed that no petition or fee is required. However, if the USPTO deems otherwise, Applicant hereby petitions for any extension of time which may be required to

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maintain the pendency of this case, and any required fee, except for the Issue Fee, for such extension is to be charged to Deposit Account No. 19-4880.

Respectfully submitted,



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WASHINGTON OFFICE

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CUSTOMER NUMBER

Date: August 26, 2004

Attorney Docket No.: Q63269